

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ADEOYE ADEBOWALE,)	
)	
Plaintiff,)	NO. 09 C 5138
)	
v.)	JUDGE GETTLEMAN
)	
(1) CHICAGO POLICE OFFICER, WALLACE A.)	
GRIFFITH, STAR No. 13909)	
(2) OFFICER McDANIELS, STAR No. 17146)	
(3) THEIR SUPERVISING SERGEANT)	
(name unknown))	
(4) DETECTIVE GEORGE GONZALES)	
(5) Ms. TROY McMILLAN)	
(6) The CITY OF CHICAGO and)	
(7) DOES 1-50 - inclusive)	
)	
Defendants.)	

**DEFENDANT GRIFFITH, McDANIELS, GONZALEZ
AND CITY OF CHICAGO’S JOINT MOTION TO DISMISS THIS
CAUSE FOR WANT OF PROSECUTION PURSUANT TO F.R.C.P. 41(b)**

Defendants¹, by and through one of their attorneys, Erica A. Hokens, Assistant Corporation Counsel of the City of Chicago Department of Law, respectfully move the court pursuant to Rule 41(b), to dismiss this cause for want of prosecution.

PROCEDURAL HISTORY

Plaintiff filed his amended complaint against all defendants on August 24, 2009. (Docket Entry No. 8). Plaintiff alleges in his amended complaint that he was illegally stopped at Midway Airport by Defendant Police Officers Griffith and McDaniels and that, separately, Defendant Detective Gonzalez illegally searched plaintiff’s residence. Plaintiff further alleges that the

¹For the purposes of this motion, the term “defendants” collectively refers to the municipal defendants, Police Officers Griffith and McDaniels, Detective Gonzalez and the City of Chicago.

Defendant Officers and Detective, the City of Chicago and civilian defendant Troy McMillan violated his federal rights by engaging in a broad conspiracy to deprive plaintiff by subjecting him to racial profiling, warrantless surveillance and illegal detention. On November 17, 2009, Defendants filed their answer to plaintiff's amended complaint. No status hearing has been held in this matter and no discovery cutoff dates have been set.

ARGUMENT

1. On November 17, 2009, I served the Defendants' answer to plaintiff's amended complaint on plaintiff at the address he provided to the court: Adeoye Adebawale, c/o 200 W. Hill Street, Chicago, IL 60610.

2. On November 21, 2009, the post office returned defendants' answer, the envelope marked "unable to forward, no forward order on file." A copy of the envelope is attached hereto as Exhibit A.

3. On March 30, 2010, Defendant Officer Griffith, pursuant to Federal Rules of Civil Procedure 33 and 34, and through counsel, served interrogatories and document requests on plaintiff at the address of 200 W. Hill Street, Chicago, Illinois 60610. A copy of the cover letter is attached hereto as Exhibit B.

4. Plaintiff's written discovery responses were due on or about April 30, 2010.

5. To date, plaintiff has failed to answer this discovery or request additional time.

6. On May 17, 2010, I wrote a letter to plaintiff seeking his responses to the outstanding discover. A copy of the letter is attached hereto as Exhibit C.

7. On June 1, 2010, the United States Post Office returned the discovery to me, marked "return to sender, attempted - not known, unable to forward." I received the return on the afternoon of June 3, 2010. A copy of the envelope is attached hereto as Exhibit D.

8. On June 3, 2010, I telephoned plaintiff to discuss his failure to answer discovery. Plaintiff informed me that he had not received the discovery and further informed me that he had moved from the address on Hill Street. Plaintiff refused to provide me with his current mailing address and upon further inquiry refused to provide a facsimile number so that I could fax the discovery. I advised plaintiff that he was under obligation to update his address information with the court. Plaintiff told me that he was consulting with one or more attorneys to discuss representing him in this case. I told him to have his attorney call me once retained.

9. On June 13, 2010, the May 17, 2010, letter seeking plaintiff's discovery responses was returned by the United States Post Office. A copy of the envelope is attached hereto as Exhibit E.

10. To date, I have not heard from plaintiff or anyone purporting to represent plaintiff. Further, plaintiff has failed to update his address information with this court, stymying efforts to conduct any discovery in this case which was filed almost one year ago.

11. Plaintiff's inaction in this case and refusal to participate in prosecuting a lawsuit that he brought and his failure to update defense counsel and this court as to his whereabouts merit dismissal of this action under Rule 41(b).

WHEREFORE, Defendants request that this Honorable Court to dismiss plaintiff's amended complaint for failure to prosecute.

Dated: August 11, 2010

Respectfully submitted,

/s/ Erica A. Hokens
Erica A. Hokens
Assistant Corporation Counsel

City of Chicago, Department of Law

30 N. LaSalle Street, Suite 900
Chicago, IL 60602
(312) 744-2568
ARDC# 6271240

CERTIFICATE OF SERVICE

I, Erica A. Hokens, an attorney, certify that I caused copies of this Notice of Motion and Motion to Compel to be served on the Plaintiff at the address listed by mailing from 30 N. LaSalle, Suite 900, Chicago, Illinois 60602 before 5:00 p.m. on August 11, 2010.

**Adeoye Adebawale
c/o 200 W. Hill
Chicago, Illinois 60610**

/s/ Erica A. Hokens
ERICA A. HOKENS
Assistant Corporation Counsel